



# **Agriculture Committee**

## **Meeting Packet**

**November 09, 2005**

**1:15 pm - 3:15 pm**

**214 The Capitol**

# **Committee Meeting Notice**

## **HOUSE OF REPRESENTATIVES**

**Speaker Allan G. Bense**

### **Agriculture Committee**

**Start Date and Time:** Wednesday, November 09, 2005 01:15 pm

**End Date and Time:** Wednesday, November 09, 2005 03:15 pm

**Location:** 214 Capitol

**Duration:** 2.00 hrs

#### **Consideration of the following bill(s):**

HB 37 CS Security of Consumer Credit Report Information by Adams

HB 167 Household Moving Services by Hays

#### **Presentations:**

Hurricane damage to Florida's agricultural industry – Department of Agriculture & Consumer Services

Water Treatment Technologies – Margaret Palmer, President, HydroMentia, Inc

**NOTICE FINALIZED on 10/28/2005 14:43 by SIMS-DAVIS.LINDA**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 37 CS                      Security of Consumer Credit Report Information  
**SPONSOR(S):** Adams and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Economic Development, Trade &amp; Banking Committee</u>	<u>13 Y, 0 N, w/CS</u>	<u>Sheheane</u>	<u>Carlson</u>
2) <u>Agriculture Committee</u>	<u></u>	<u>Reese</u>	<u>Reese</u>
3) <u>Civil Justice Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer.

The security freeze lasts until the consumer requests that it be removed or temporarily lifted. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill prohibits a consumer credit reporting agency from charging a fee to a consumer wishing to place a security freeze on his or her credit report. The bill allows a consumer credit reporting agency to charge a fee, not to exceed \$5, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report.

The bill creates a new cause of action for any person who is aggrieved by a knowing or willful violation of the provisions of the bill for the recovery of actual and consequential damages, court costs, and attorney's fees.

The bill becomes effective on July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard Individual Liberty** – The bill allows a consumer to protect his or her personal information by placing a security freeze on his or her credit report and to remove or temporarily lift the security freeze at his or her discretion.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Fraud Alert**

The federal Fair Credit Reporting Act<sup>1</sup> (FCRA) provides two different types of fraud alerts that consumers may use to protect themselves against identity theft. Fraud alerts are designed to protect a consumer's private credit information if he or she suspects someone is attempting to open credit accounts in the consumer's name. When a business sees the alert on a consumer's credit report, the business must verify the consumer's identity before issuing credit. As part of the verification process, the business may try to contact the consumer directly.

A one-call fraud alert allows a consumer, or an individual acting on behalf of a consumer, who asserts in good faith that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, to request that a consumer reporting agency include a fraud alert on the file of that consumer and also provide that alert along with any credit score generated with that file for a period of 90 days unless the consumer requests that the alert be removed before the end of that time period. The consumer reporting agency must also refer the information regarding the fraud alert to each of the other consumer reporting agencies as described in current law.

An extended alert is provided for a consumer wishing to place an alert on his or her file for a period of up to seven years unless the consumer wishes to remove the alert before the end of that time period. During the first five years of an extended fraud alert, a consumer reporting agency must exclude the consumer from any list of consumers prepared by a consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction not initiated by the consumer. A consumer may request that the exclusion be rescinded before the end of the five year time period. The consumer reporting agency must also refer the information regarding the extended fraud alert to each of the other consumer reporting agencies as described in current law.

The FCRA requires that in any case where a consumer reporting agency includes a fraud alert in the file of a consumer, the consumer credit reporting agency must disclose to the consumer that he or she may request two free copies of the file on the consumer during the 12 month period beginning on the date in which the fraud alert was included in the file.

Fraud alerts do not prevent a credit report from being issued.

##### **Blocking Information Resulting from Identity Theft**

The FCRA provides that a consumer credit reporting agency must block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, no later than 4 business days after the receipt by such agency of: appropriate proof of the identity of the consumer; a copy of an identity theft report; the identification of such

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<sup>1</sup> 15 U.S.C. ss. 1681 et seq.

information by the consumer; and a statement by the consumer that the information is not related to any transaction by the consumer.

A consumer credit reporting agency is to promptly notify the furnisher of any information that has been identified as information resulting from an alleged identity theft that the information may be the result of identity theft; that an identity theft report has been filed; that a block has been requested; and the effective dates of the block.

A consumer credit reporting agency may decline to block or rescind any block if the consumer credit reporting agency reasonably determines that: the information was blocked in error; a block was requested by the consumer on the basis of material misrepresentation of fact by the consumer relevant to the request to block; or the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

## **Federal Legislation**

There are two bills currently filed in the United States Senate and three bills filed in the House of Representatives relating to the protection of consumer information.

**S. 737-** The bill amends the FCRA as it relates to consumer reporting agencies furnishing consumer information to the Federal Bureau of Investigation under specific circumstances.

Latest Major Action: 4/6/2005 Referred to Senate Committee on the Judiciary.

**S. 1461-** The bill provides a consumer with the ability to place a security freeze on his or her private information file if the request is made by certified mail, by telephone by providing certain sensitive personal information, or through a secure electronic mail connection if such a connection is made available by the consumer reporting agency.

The bill requires a consumer reporting agency to place the requested freeze no later than 2 business days after receiving the written or telephone request from the consumer and within 24 hours after receiving an electronic mail request. The bill requires the consumer reporting agency to send a written confirmation to the consumer within 2 business days of placing the requested freeze and to provide the consumer a unique personal identification number or password to be used by the consumer to authorize access to the private information file or to remove the freeze from the file.

The bill prohibits a consumer credit reporting agency from charging a fee for placing, temporarily lifting, or removing a security freeze from a consumer's credit report. The bill prohibits a consumer credit reporting agency from charging a fee to replace or reissue the identification number and password the first time the information is provided to the consumer and allows for a fee to be charged, of not more than \$5, for a second or subsequent replacement of such information.

Latest Major Action: 7/21/2005 Referred to Senate Committee on Banking, Housing, and Urban Affairs.

**H.R. 1745-** The bill provides for protection of a consumer's Social Security account number to prevent fraudulent misuse and to otherwise enhance protection against identity theft.

Latest Major Action: 5/19/2005 Referred to House Subcommittee on Financial Institutions and Consumer Credit.

**H.R. 2715-** Similar to H.R. 737, the bill amends the FCRA as it relates to consumer reporting agencies furnishing consumer information to the Federal Bureau of Investigation under specific circumstances.

Latest Major Action: 7/29/2005 Referred to House Subcommittee on Financial Institutions and Consumer Credit.

**H.R. 3140-** The bill amends the FCRA to expand the protections for sensitive personal information in Federal law to cover the information collection and sharing practices of unregulated information brokers, to enhance information security requirements for consumer reporting agencies and information brokers, and to require consumer reporting agencies, financial institutions, and other entities to notify consumers of data security breaches involving sensitive consumer information.

Latest Major Action: 6/30/2005 Referred to House Committee on Financial Services.

### **States Offering a Security Freeze**

Currently, California, Texas, Louisiana, Vermont, Washington, Nevada, Connecticut, Illinois, Maine, and Colorado offer consumers the right to freeze their credit reports. Texas, Vermont, Washington, and Illinois only offer the option to those consumers affected by identity theft. Florida does not provide for any freeze or block on consumer credit information.

This bill is drawn from language contained in California's and New Jersey's legislation.

### **Proposed Changes**

The bill allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer. The security freeze lasts until the consumer requests that it be removed. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill requires a consumer credit reporting agency to place a security freeze on a consumer's credit report no later than five business days after receiving the written request and requires the consumer credit reporting agency to send a written confirmation of the security freeze to the consumer within five business days of instituting the security freeze. A consumer credit reporting agency must remove the security freeze within three days of notification from the consumer. The bill requires the consumer credit reporting agency to provide the consumer with a personal identification number or password to be used by the consumer in the case where a consumer may wish to provide for the limited release of his or her credit report for a designated period of time during the security freeze.

If the consumer wishes to allow his or her credit report to be accessed for a designated period of time while a security freeze is in effect; he or she must contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide: proper identification as determined by the consumer credit reporting agency; the personal identification number or password previously provided to the consumer by the consumer credit reporting agency; and the proper information regarding the specified period of time for which the report shall be made temporarily available.

The bill requires a consumer credit reporting agency to lift the security freeze within three days of receiving a request from a consumer to temporarily lift the security freeze and allows a consumer credit reporting agency to use telephonic communication or any form of secure electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report. The bill provides that consumer credit reporting agencies should have a goal of processing such requests within 15 minutes after receiving the request.

The bill allows a third party requesting access to a consumer credit report to treat the application as incomplete if the consumer has not authorized a temporary lifting of the security freeze for the period of time in which the request is made.

## **Exemptions**

The bill provides the following exemptions for use of a credit report by certain entities regardless of a security freeze being placed on a consumer's credit report:

- Any person to whom the consumer owes a financial obligation under certain circumstances;
- A subsidiary, affiliate, agent, assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;
- Any state agency acting within its lawful investigative or regulatory authority;
- A state or local law enforcement agency acting to investigate a crime or conducting a criminal background check;
- Any person administering a credit file monitoring subscription service to which the consumer has subscribed;
- Any person for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request;
- Pursuant to a court order lawfully entered; or
- The use of credit information for the purposes of prescreening as provided for by the FCRA.

In addition, check services companies and demand deposit account information services companies are not required to place a freeze on a consumer's credit report. Resellers of consumer credit information are also exempt, however they must honor a security freeze placed on a consumer credit report.

## **Fees**

The bill allows a consumer credit reporting agency to charge a fee, not to exceed \$5, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report. The bill disallows a consumer credit reporting agency to charge a fee to a consumer wishing to place a security freeze on his or her credit report. A consumer may be charged a fee, not to exceed \$5, if the consumer forgets or misplaces the identification number or password provided by the consumer credit reporting agency and the agency must reissue the information to the consumer.

## **Consumer Information**

The bill does not allow a consumer credit reporting agency to change a consumer's official information in a credit report when a security freeze is in effect without sending a written confirmation of the change to the consumer within 30 days of making the change. "Official information" includes the consumer's name, address, date of birth, and social security number. In the case of an address change, the bill requires the written confirmation to be sent to the new address and the former address of the consumer.

The bill provides that a written confirmation is not required for technical modifications to a consumer's official information including name and street abbreviations, complete spellings, or transposition of numbers or letters.

## **Cause of Action**

The bill creates a new cause of action for any person who is aggrieved by a knowing or willful violation of the provisions of the bill for the recovery of actual and consequential damages, court costs, and attorney's fees.

## **Disclosure**

The bill requires a consumer credit reporting agency to include a written summary of all rights under the bill to a consumer when sending the consumer a written disclosure. The bill details the information that



must be included in the written summary of consumer rights, including the right to civil action. Consumer credit reporting agencies which maintain consumer credit reports on a nationwide basis must provide a toll free telephone number for the consumer to use if he or she wishes to communicate with the consumer credit reporting agency.

#### C. SECTION DIRECTORY:

Section 1. Creates s. 501.005, F.S., authorizing and providing the procedures for a consumer to place a security freeze on his or her credit report. Provides definitions pertaining to a credit report security freeze. Provides procedures for temporary suspension and removal of a security freeze on a credit report. Provides procedures to allow temporary access to a credit report under a security freeze. Authorizes credit reporting agencies to charge a fee to temporarily lift or remove a security freeze and disallows such fees for placing a security freeze on a consumer's credit report. Provides exemptions for certain entities. Provides civil remedy. Provides requirements for written disclosure.

Section 2. Provides that the act will take effect on July 1, 2006.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill allows consumer credit reporting agencies to charge a reasonable fee any time a consumer chooses to temporarily lift or remove a freeze from his or her credit report.

#### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On October 18, 2005, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment does the following:

- Decreases the time in which a consumer credit reporting agency must send a written confirmation of the security freeze to a consumer from 10 days to 5 days.
- Provides that a consumer credit reporting agency must strive to process within 15 minutes a request from a consumer to temporarily lift his or her security freeze.
- Clarifies the entities that are exempt from a security freeze and may access a credit report to include state agencies, local or state law enforcement and other appropriate persons.
- Provides that a consumer credit reporting agency may not charge a consumer to place a security freeze on his or her credit report, but may impose a fee, of not more than \$5, for the consumer to temporarily lift or remove a security freeze from his or her credit report.
- Provides that a consumer credit reporting agency may charge a fee, not more than \$5, if a consumer fails to retain the original personal identification number or password provided by the consumer credit reporting agency and the agency must reissue the information to the consumer.
- Clarifies that a civil action may be brought for the knowing or willful violation of the bill's provisions.
- Provides that a consumer wishing to place a security freeze on his or her credit report must do so in writing by certified mail to a consumer credit reporting agency.
- Clarifies that the temporary lifting of a security freeze is for a specific period of time, not for a specific recipient.

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CHAMBER ACTION

The Economic Development, Trade & Banking Committee recommends  
the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to security of consumer credit report  
information; creating s. 501.005, F.S.; authorizing a  
consumer to place a security freeze on his or her consumer  
credit report; defining "consumer credit report security  
freeze"; providing procedures and requirements with  
respect to the placement, temporary suspension, and  
removal of a security freeze on a consumer credit report;  
authorizing a consumer to allow specified temporary access  
to his or her credit report during a security freeze;  
providing procedures with respect to such temporary  
access; providing for removal of a security freeze when a  
consumer's credit report was frozen due to a material  
misrepresentation of fact by the consumer; providing  
applicability; prohibiting a consumer credit reporting  
agency from charging a fee to place a security freeze on a  
consumer credit report; authorizing consumer credit

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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reporting agencies to charge a fee to remove or temporarily lift a security freeze and to reissue a personal identification number or password; restricting the change of specified information in a consumer credit report when a security freeze is in effect; providing an exemption for certain persons or entities; providing for civil remedy; providing requirements with respect to written disclosure by a consumer credit reporting agency of procedures and consumer rights associated with a security freeze; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.005, Florida Statutes, is created to read:

501.005 Consumer credit report security freeze.--

(1) A consumer may place a security freeze on his or her consumer credit report by making a request in writing by certified mail to a consumer credit reporting agency. For purposes of this section, "consumer credit report security freeze" or "security freeze" means a notice placed in a consumer's credit report that prohibits a consumer credit reporting agency from releasing the consumer's credit report or any information contained within the credit report to a third party without the express authorization of the consumer. This section does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

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52        (2) A consumer credit reporting agency shall place a  
53        security freeze on a consumer's credit report no later than 5  
54        business days after receiving a request from the consumer.

55        (3) The consumer credit reporting agency shall send a  
56        written confirmation of the security freeze to the consumer  
57        within 5 business days after instituting the security freeze and  
58        shall provide the consumer with a unique personal identification  
59        number or password to be used by the consumer when providing  
60        authorization for the limited release of his or her credit  
61        report for a designated period of time during the security  
62        freeze as provided in subsection (4).

63        (4) A consumer may allow his or her credit report to be  
64        accessed for a designated period of time while a security freeze  
65        is in effect by contacting the consumer credit reporting agency  
66        and requesting that the freeze be temporarily lifted. The  
67        consumer must provide the following information to the consumer  
68        credit reporting agency as part of the request:

69        (a) Proper identification as determined by the consumer  
70        credit reporting agency.

71        (b) The unique personal identification number or password  
72        provided by the consumer credit reporting agency pursuant to  
73        subsection (3).

74        (c) Information specifying the period of time for which  
75        the report shall be made available.

76        (5) A consumer credit reporting agency that receives a  
77        request from a consumer to temporarily lift a freeze on a credit  
78        report pursuant to subsection (4) shall comply with the request  
79        no later than 3 business days after receiving the request.

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80       (6) A consumer credit reporting agency shall use  
81 telephonic communication or any form of secure electronic media  
82 to receive and process a request from a consumer pursuant to  
83 subsection (4) with the goal of processing a request within 15  
84 minutes after receipt of such request.

85       (7) A consumer credit reporting agency shall temporarily  
86 lift or remove a security freeze placed on a consumer's credit  
87 report only in the following instances:

88       (a) Upon consumer request, pursuant to subsection (4) or  
89 subsection (10).

90       (b) If the consumer's credit report was frozen due to a  
91 material misrepresentation of fact by the consumer. If a  
92 consumer credit reporting agency intends to remove a security  
93 freeze on a consumer's credit report pursuant to this paragraph,  
94 the consumer credit reporting agency shall notify the consumer  
95 in writing prior to removing the security freeze.

96       (8) A third party requesting access to a consumer credit  
97 report on which a security freeze is in effect in connection  
98 with an application for credit or other permissible use may  
99 treat the application as incomplete if the consumer has not  
100 authorized a temporary lifting of the security freeze for the  
101 period of time during which the request is made.

102       (9) If a consumer requests a security freeze, the consumer  
103 credit reporting agency shall disclose to the consumer all  
104 information relevant to the process of instituting, temporarily  
105 lifting, and removing a security freeze and shall include the  
106 disclosure required by subsection (16).

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(10) A security freeze shall remain in place until the consumer requests that it be removed. A consumer credit reporting agency shall remove a security freeze within 3 business days after receiving a request for removal from the consumer, who, upon making the request for removal, must provide the following:

(a) Proper identification as determined by the consumer credit reporting agency.

(b) The unique personal identification number or password provided by the credit reporting agency pursuant to subsection (3).

(11) The provisions of this section do not apply to the use of a consumer credit report by the following persons or for the following reasons:

(a) A person to whom the consumer owes a financial obligation or a subsidiary, affiliate, or agent of the person, or an assignee of a financial obligation owed by the consumer to the person, or a prospective assignee of a financial obligation owed by the consumer to the person in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

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(b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under this section for purposes of facilitating the extension of credit or other permissible use.

(c) A state agency acting within its lawful investigative or regulatory authority.

(d) A state or local law enforcement agency acting to investigate a crime or conducting a criminal background check.

(e) Any person administering a credit file monitoring subscription service to which the consumer has subscribed.

(f) Any person for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request.

(g) Pursuant to a court order lawfully entered.

(h) The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act.

(12) A consumer credit reporting agency shall not charge a consumer a fee to place a security freeze on the consumer's credit report. A consumer credit reporting agency may charge a reasonable fee, not to exceed \$5, to a consumer who elects to remove or temporarily lift a security freeze on his or her consumer credit report. A consumer may be charged a reasonable fee, not to exceed \$5, if the consumer fails to retain the original personal identification number or password provided by the consumer credit reporting agency, and the agency must reissue the personal identification number or password or



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162 provide a new personal identification number or password to the  
163 consumer.

164 (13) If a security freeze is in effect, a consumer credit  
165 reporting agency shall not change any of the following official  
166 information in a consumer credit report without sending a  
167 written confirmation of the change to the consumer within 30  
168 days after the change is posted to the consumer's file:

169 (a) Name.

170 (b) Address.

171 (c) Date of birth.

172 (d) Social security number.

173  
174 Written confirmation is not required for technical corrections  
175 of a consumer's official information, including name and street  
176 abbreviations, complete spellings, or transposition of numbers  
177 or letters. In the case of an address change, the written  
178 confirmation shall be sent to both the new address and the  
179 former address.

180 (14) The provisions of this section do not apply to the  
181 following entities:

182 (a) A check services company, which issues authorizations  
183 for the purpose of approving or processing negotiable  
184 instruments, electronic funds transfers, or similar methods of  
185 payment.

186 (b) A demand deposit account information service company,  
187 which issues reports regarding account closures due to fraud,  
188 substantial overdrafts, automatic teller machine abuse, or  
189 similar negative information regarding a consumer to inquiring

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banks or other financial institutions for use only in reviewing  
a consumer request for a demand deposit account at the inquiring  
bank or financial institution, as defined in s. 655.005(1)(g) or  
(h).

(c) A consumer credit reporting agency that acts only as a  
reseller of credit information by assembling and merging  
information contained in the database of another consumer credit  
reporting agency or multiple consumer credit reporting agencies  
and does not maintain a permanent database of credit information  
from which new consumer credit reports are produced. However, a  
consumer credit reporting agency shall honor any security freeze  
placed on a consumer credit report by another consumer credit  
reporting agency.

(15) In addition to any other penalties or remedies  
provided under law, a person who is aggrieved by a knowing or  
willful violation of the provisions of this section may bring a  
civil action in any court of competent jurisdiction against any  
person or entity, including a consumer credit reporting agency,  
for recovery of actual and consequential damages, court costs,  
and attorney's fees.

(16) Any written disclosure by a consumer credit reporting  
agency to any consumer pursuant to this section shall include a  
written summary of all rights the consumer has under this  
section, and, in the case of a consumer credit reporting agency  
which compiles and maintains consumer credit reports on a  
nationwide basis, a toll-free telephone number which the  
consumer can use to communicate with the consumer credit  
reporting agency. The written summary of rights required under

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this section is sufficient if it is in substantially the following form:

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail to a consumer credit reporting agency. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to control access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a designated period of time after the security freeze is in place. To provide that authorization, you must contact the consumer credit reporting agency and provide all of the following:

- (1) The personal identification number or password.
- (2) Proper identification to verify your identity.

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(3) Information specifying the period of time for which the report shall be made available.

A consumer credit reporting agency must authorize the release of your credit report no later than 3 business days after receiving the above information.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have the right to bring a civil action against anyone, including a consumer credit reporting agency, who fails to comply with the provisions of s. 501.005, Florida Statutes, which governs the placing of a consumer credit report security freeze on your consumer credit report. This includes the right to bring a civil action against any person for recovery of your actual and consequential damages, court costs, and attorney's fees caused by a knowing or willful violation of the law.

Section 2. This act shall take effect July 1, 2006.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 167 Household Moving Services  
**SPONSOR(S):** Hays and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 244

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture Committee</u>	<u></u>	<u>Reese</u>	<u>Reese</u>
2) <u>Agriculture &amp; Environment Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>State Resources Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill amends the "Intrastate Moving Law" to change the title to "Household Moving Services" and also to expand and clarify certain definitions. Definitions for the terms "household move", "moving broker", and "moving container" are added. The bill requires moving brokers to register with the Department of Agriculture and Consumer Services (department) and post specific financial security. Additionally, the legislation requires movers' vehicle display signage to have a minimum letter height of 1.5 inches, clarifies additional insurance valuation coverage requirements and provides that the department may suspend registration and seek civil penalties for failure to carry valid liability insurance. The bill also clarifies the requirements for limitation of liability disclosure to the consumer and provides that a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the department.

HB 167 does not appear to require state or local governments to spend funds.

The bill takes effect on July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard individual liberty and promote personal responsibility** – The bill states that a mover's failure to maintain the required liability insurance coverage "constitutes an immediate threat to the public health, safety, and welfare."<sup>1</sup>

#### B. EFFECT OF PROPOSED CHANGES:

Present situation: The 2002 Legislature enacted laws regulating the intrastate moving industry in Florida. Any mover wishing to do business in the state must register annually with the Department of Agriculture and Consumer Services (department). To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300, and meet statutory qualifications.

The law requires a mover to maintain cargo liability insurance coverage in the amount of \$10,000 per shipment and limits the mover's liability to not less than 60 cents per pound of cargo. Minimum limits of motor vehicle coverage are also specified in the amounts of \$50,000, \$100,000, and \$300,000 per occurrence.

Proposed changes: The bill amends Chapter 507, Florida Statutes, the intrastate moving law, to:

- Change the title of the chapter from "Intrastate Moving Law" to "Household Moving Services".
- Expand and clarify certain existing definitions and to add definitions for the terms "household move", "moving broker", and "moving container".
- Require moving brokers to register with the department and post specific financial security. A mover that operates two or fewer vehicles may post a performance bond or certificate of deposit in the amount of \$25,000 in lieu of the cargo legal liability coverage.<sup>2</sup>
- Require movers' vehicle display signage to have a minimum letter height of 1.5 inches.
- Clarify additional insurance valuation coverage requirements for coverage of a consumer's goods.
- Provide that the department may suspend registration and seek civil penalties for failure to carry valid liability insurance.
- Clarify the requirements for limitation of liability disclosure to the consumer.
- Exempt from the hearing requirements of chapter 120, Florida Statutes, proceedings conducted by the department against a mover that fails to maintain the required insurance coverage.<sup>3</sup>
- Provide that a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the department.

#### C. SECTION DIRECTORY:

Section 1. Requests the Division of Statutory Revision to redesignate the title of ch. 507, F.S.

Section 2. Amends s. 507.01, F.S.; revising definitions; defining new terms; clarifying licensing requirements for household movers and moving brokers; applying the licensing requirements; clarifying and conforming provisions.

Section 3. Amends s. 507.02, F.S.; clarifying the construction, application and intent of the licensing requirements.

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<sup>1</sup> Proposed s. 507.04 (1)(a), F.S.

<sup>2</sup> Proposed s. 507.04(1)(b), F.S.

<sup>3</sup> Proposed s. 120.80(2)(d), F.S.

Section 4. Amends s. 507.03, F.S.; requiring moving brokers to register with the Department of Agriculture and Consumer Services; providing registration requirements and fees; providing for certificate of registration; requiring display of certificate; clarifying registration requirements for household movers and moving brokers; requiring brokers to obtain local registration or license under certain circumstances; revising advertising requirements; requiring a mover's vehicles to display certain signage; providing for denial, refusal to renew, or revocation of registration of mover or moving broker; requiring brokers to provide evidence of certain insurance coverage; revising requirement for mover to provide evidence of certain insurance coverage.

Section 5. Amends s. 507.04, F.S.; clarifying requirements that a mover maintain certain insurance coverage; requiring a mover to submit evidence of liability insurance before registration; providing requirements for liability insurance coverage; authorizing the Department of Agriculture and Consumer Services to suspend a mover's registration and seek an injunction in circuit court if the mover fails to maintain insurance coverage; providing penalties; authorizing certain movers and requiring moving brokers to maintain a performance bond or certificate of deposit in lieu of certain liability insurance coverage; providing requirements for the performance bond or certificate of deposit; providing for payment of claims pursuant to department order in an administrative proceeding; specifying that insurance coverage must be issued by a licensed insurance company or carrier; prohibiting certain limits of liability for a mover's loss or damage of a shipper's goods; requiring certain disclosures of liability limitations; authorizing a mover to offer valuation coverage under specified conditions; providing that valuation coverage meeting specified conditions satisfies certain liability of a mover; requiring certain disclosures of valuation coverage.

Section 6. Amends s. 507.05, F.S.; revising requirements for content of contracts.

Section 7. Amends s. 507.06, F.S.; revising provisions for delivery and storage of household goods.

Section 8. Amends s. 507.07, F.S.; requiring that moving brokers annually register with the department; revising provisions relating to prohibited acts and violations; specifying that the making of certain false statements is a violation of ch. 507, F.S., regardless of whether the statements are material; clarifying and conforming provisions.

Section 9. Amends s. 507.08, F.S.; clarifying and conforming provisions relating to deceptive and unfair trade practice.

Section 10. Amends s. 507.09, F.S.; conforming language relating to administrative remedies and penalties.

Section 11. Amends s. 507.10, F.S.; conforming language relating to civil penalties and remedies.

Section 12. Amends s. 507.11, F.S.; providing penalties.

Section 13. Amends s. 507.12, F.S.; conforming language regarding deposit of payments into the General Inspection Trust Fund.

Section 14. Amends s. 507.13, F.S.; conforming language relating to local regulations.

Section 15. Creates s. 205.1975, F.S.; prohibiting a county or municipality from issuing or renewing an occupational license to a mover or moving broker under certain circumstances.

Section 16. Provides an effective date.



## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

Indeterminate. See fiscal comments below.

#### **2. Expenditures:**

The bill appears to have no impact on state government revenues.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The bill appears to have no impact on local government revenues.

#### **2. Expenditures:**

The bill appears to have no impact on local government expenditures.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill requires moving brokers to annually register with the department, submit a form of security deposit in the amount of \$25,000, and pay a \$300 registration fee. The bill also requires movers to include signage at least 1.5 inches in height on their moving vehicles. In addition, the bill allows movers with less than 3 trucks to submit security to the department in the amount of \$25,000, in lieu of the required liability insurance coverage.

### **D. FISCAL COMMENTS:**

Movers are currently required to pay an annual \$300 registration fee to the Department of Agriculture and Consumer Services and this bill extends this requirement to moving brokers as well. Some recurring revenue may accrue to the General Inspection Trust Fund housed within the department from the annual registration fee that would be collected from moving brokers. This amount is indeterminate as there are no statistics available on the number of moving brokers in Florida.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

#### **2. Other:**

None

### **B. RULE-MAKING AUTHORITY:**

The bill contains no grant of rule-making authority.

### **C. DRAFTING ISSUES OR OTHER COMMENTS: None**

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

N/A

1 A bill to be entitled

2 An act relating to household moving services; requesting  
3 the Division of Statutory Revision to redesignate the  
4 title of ch. 507, F.S.; amending s. 507.01, F.S.; revising  
5 definitions; defining "household move," "moving broker,"  
6 and "moving container"; amending s. 507.02, F.S.; revising  
7 the construction, application, and intent of regulations  
8 for household moving services; providing for application  
9 to moving brokers; amending s. 507.03, F.S.; revising  
10 mover registration provisions and providing for  
11 application to moving brokers; requiring moving brokers to  
12 register with the Department of Agriculture and Consumer  
13 Services; providing requirements and fees for such  
14 registration; providing for certificate of registration;  
15 requiring display of the certificate; requiring brokers to  
16 obtain local registration or license when required by the  
17 county or municipality where the broker's principal place  
18 of business is located; deleting provisions for issuance  
19 by the department of a certificate of registration when a  
20 mover submits proof of local license or registration;  
21 revising requirements for content of contracts; revising  
22 advertising requirements; requiring a mover's vehicles to  
23 display certain signage; revising provisions for changes  
24 in registration; providing for denial, refusal to renew,  
25 or revocation of registration; revising requirements to  
26 provide evidence of current and valid insurance coverage  
27 to include certain alternative coverage; amending s.  
28 507.04, F.S.; revising provisions requiring a mover to

29 maintain certain insurance coverages; requiring a mover to  
30 submit evidence of liability insurance before  
31 registration; providing requirements for liability  
32 insurance coverage; authorizing the Department of  
33 Agriculture and Consumer Services to suspend a mover's  
34 registration and seek an injunction in circuit court if  
35 the mover fails to maintain insurance coverage; providing  
36 penalties; authorizing certain movers and requiring moving  
37 brokers to maintain a performance bond or certificate of  
38 deposit in lieu of certain liability insurance coverage;  
39 providing requirements for the performance bond or  
40 certificate of deposit; providing for payment of claims  
41 pursuant to department order in an administrative  
42 proceeding; revising requirements for motor vehicle  
43 coverage; specifying that insurance coverages must be  
44 issued by a licensed insurance company or carrier;  
45 prohibiting certain limits of liability for a mover's loss  
46 or damage of a shipper's goods; requiring certain  
47 disclosures of liability limitations; authorizing a mover  
48 to offer valuation coverage under specified conditions;  
49 providing that valuation coverage meeting specified  
50 conditions satisfies certain liability of a mover;  
51 requiring certain disclosures of valuation coverage;  
52 amending s. 507.05, F.S.; revising requirements for  
53 content of contracts; amending s. 507.06, F.S.; revising  
54 provisions for delivery and storage of household goods to  
55 provide for delivery to a storehouse or warehouse;  
56 amending s. 507.07, F.S.; requiring that moving brokers

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annually register with the department; revising provisions relating to prohibited acts and violations; specifying that making certain false statements is a violation regardless of whether the statements are material; amending s. 507.11, F.S.; providing penalties; amending ss. 507.08, 507.09, 507.10, 507.12, and 507.13, F.S., relating to deceptive and unfair trade practice, administrative remedies and penalties, civil penalties and remedies, the General Inspection Trust Fund, and local regulation; providing for application to moving brokers; clarifying and conforming provisions; providing for the adoption of rules; creating s. 205.1975, F.S.; prohibiting a county or municipality from issuing or renewing an occupational license to a mover or moving broker under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Division of Statutory Revision is requested to redesignate the title of chapter 507, Florida Statutes, as "HOUSEHOLD MOVING SERVICES."

Section 2. Section 507.01, Florida Statutes, is amended to read:

507.01 Definitions.--As used in this chapter ~~For the purposes of this act,~~ the term:

(1) "Accessorial services" means any service performed by a mover which results in a charge to the shipper and is incidental to the transportation or shipment of household goods

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85 ~~service~~, including, but not limited to, valuation coverage;  
 86 preparation of written inventory; equipment, including dollies,  
 87 hand trucks, pads, blankets, and straps; storage, packing,  
 88 unpacking, or crating of articles; hoisting or lowering; waiting  
 89 time; ~~long carry, which is defined as~~ carrying articles  
 90 excessive distances to or from ~~between~~ the mover's vehicle,  
 91 which may be cited as "long carry" ~~and the residence~~; overtime  
 92 loading and unloading; reweighing; disassembly or reassembly;  
 93 elevator or stair carrying; boxing or servicing of appliances;  
 94 and furnishing of packing or crating materials. The term  
 95 includes ~~Accessorial services also include~~ services not  
 96 performed by the mover but performed by a third party at the  
 97 request of the shipper or mover, if the charges for these ~~such~~  
 98 services are to be paid to the mover by the shipper at or before  
 99 ~~prior to~~ the time of delivery.

100       (2) "Advertise" means to advise, announce, give notice of,  
 101 publish, or call attention by use of oral, written, or graphic  
 102 statement made in a newspaper or other publication or on radio  
 103 or television, any electronic medium, or contained in any  
 104 notice, handbill, sign, including signage on vehicle, flyer,  
 105 catalog or letter, or printed on or contained in any tag or  
 106 label attached to or accompanying any good.

107       (3) "Compensation" means money, fee, emolument, quid pro  
 108 quo, barter, remuneration, pay, reward, indemnification, or  
 109 satisfaction.

110       (4) "Contract for service" or "bill of lading" means a  
 111 written document approved by the shipper in writing before ~~prior~~  
 112 ~~to~~ the performance of any service which authorizes services from

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113 the named mover and lists the services and all costs associated  
114 with the ~~transportation of household move goods~~ and accessorial  
115 services to be performed.

116 (5) "Department" means the Department of Agriculture and  
117 Consumer Services.

118 (6) "Estimate" means a written document that ~~which~~ sets  
119 forth the total costs, ~~cost~~ and describes the basis of those  
120 ~~such costs, relating related~~ to a shipper's household move,  
121 including ~~which shall include~~, but not be limited to, the  
122 loading, transportation or shipment, and unloading of household  
123 goods and accessorial services.

124 (7) "Household goods" or "goods" means personal effects or  
125 other personal property commonly found in a home, personal  
126 residence, ~~storage facility~~, or other dwelling location,  
127 including, but not limited to, household furniture. The term  
128 ~~property in a storehouse or warehouse facility that is owned or~~  
129 ~~rented by a shipper or shipper's agent, but~~ does not include  
130 freight or personal property moving to or from a factory, store,  
131 or other place of business.

132 (8) "Household move" or "move" means the loading of  
133 household goods into a vehicle, moving container, or other mode  
134 of transportation or shipment; the transportation or shipment of  
135 those household goods; and the unloading of those household  
136 goods, when the transportation or shipment originates and  
137 terminates at one of the following ultimate locations,  
138 regardless of whether the mover temporarily stores the goods  
139 while en route between the originating and terminating  
140 locations:

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(a) From one dwelling to another dwelling;

(b) From a dwelling to a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent; or

(c) From a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent to a dwelling.

(9)(8) "Mover" means a ~~any~~ person who, for compensation, contracts for or engages in the loading, transportation or shipment, or unloading of household goods as part of a household move ~~for compensation~~. The term does not include a postal, courier, envelope, or package service that does not advertise itself as a mover or moving service.

(10) "Moving broker" or "broker" means a person who, for compensation, arranges for another person to load, transport or ship, or unload household goods as part of a household move or who, for compensation, refers a shipper to a mover by telephone, postal or electronic mail, Internet website, or other means.

(11) "Moving container" means a receptacle holding at least 225 cubic feet of volume which is used to transport or ship household goods as part of a household move.

(12)(9) "Shipper" means a ~~any~~ person who uses the services of a mover to transport or ship household goods as part of a household move.

(13)(10) "Storage" means ~~the~~ warehousing of ~~a~~ ~~the~~ shipper's goods while under the care, custody, and control of the mover.

Section 3. Section 507.02, Florida Statutes, is amended to read:

507.02 Construction; intent; application.--



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(1) This chapter ~~The provisions of this act~~ shall be construed liberally to:

(a) Establish the law of this state governing the loading, transportation ~~or~~, shipment, unloading, and affiliated storage of household goods as part of household moves.

(b) Address household moving practices in this state in a manner that is not inconsistent with federal law governing ~~relating to~~ consumer protection.

(2) This chapter applies ~~The provisions of this act shall apply~~ to the operations of any mover or moving broker engaged in the intrastate transportation or shipment of household goods originating in this state and terminating in this state. This chapter does not apply to, except this act shall not be ~~construed to include~~ shipments contracted by the United States, the state, or any local government or political subdivision of the state. ~~The provisions of this act shall only apply to the transportation of household goods originating in this state and terminating in this state.~~

(3) This chapter is intended ~~It is the intent of this act~~ to secure the satisfaction and confidence of shippers and members of the public when using a mover.

(4) This chapter does not supersede ~~Nothing in this act shall be construed to remove~~ the authority or jurisdiction of any federal agency for ~~with respect to~~ goods or services regulated or controlled under other provisions of law.

Section 4. Section 507.03, Florida Statutes, is amended to read:

507.03 Registration.--

197       (1) Each mover and moving broker must ~~shall~~ annually  
198 register with the department, providing its legal business and  
199 trade name, mailing address, and business locations; the full  
200 names, addresses, and telephone numbers of its owners or  
201 corporate officers and directors and the Florida agent of the  
202 corporation; a statement whether it is a domestic or foreign  
203 corporation, its state and date of incorporation, its charter  
204 number, and, if a foreign corporation, the date it registered  
205 with the Department of State of Florida, ~~and occupational~~  
206 ~~license where applicable~~; the date on which the a mover or  
207 broker registered its fictitious name if the mover or broker is  
208 operating under a fictitious or trade name; the name of all  
209 other corporations, business entities, and trade names through  
210 which each owner of the mover or broker operated, was known, or  
211 did business as a mover or moving broker within the preceding 5  
212 years; and proof of the insurance or alternative coverages  
213 ~~coverage as required under s. 507.04 by this act.~~

214       (2) A certificate evidencing proof of registration shall  
215 be issued by the department and must be prominently displayed in  
216 the mover's or broker's primary place of business.

217       (3) Registration fees shall be \$300 per year per mover or  
218 moving broker. All amounts collected shall be deposited by the  
219 Chief Financial Officer to the credit of the General Inspection  
220 Trust Fund of the department for the sole purpose of  
221 administration of this chapter act.

222       (4) Any mover or moving broker whose principal place of  
223 business is located in a county or municipality that requires,  
224 by local ordinance, a local license or registration to engage in

the business of moving and storage of household goods must ~~shall~~ obtain the license or registration from the ~~such~~ county or municipality. A mover or broker that obtains a a ~~such~~ local license or registration must ~~shall~~ also ~~be required to~~ pay the state registration fee under subsection (3), ~~and the department shall issue the mover a state certificate of registration upon submission of proof of the local license or registration by the mover.~~

(5) Each contract of a mover or moving broker must include the phrase "(NAME OF FIRM) is registered with the State of Florida as a Mover or Moving Broker. Registration No. ...."

(6) Each advertisement of a mover or moving broker must include the phrase "Fla. Mover Reg. No. ...." or "Fla. IM No. ...." Each of the mover's vehicles must clearly and conspicuously display a sign on the driver's side door which includes at least one of these phrases in lettering of at least 1.5 inches in height.

(7) A ~~No~~ registration is not ~~shall be~~ valid for any mover or broker transacting business at any place other than that designated in the mover's or broker's ~~its~~ application, unless the department is first notified in writing before ~~in advance of~~ any change of location. A registration issued under this chapter ~~is not act~~ ~~shall not be~~ assignable, and the mover or broker ~~may~~ ~~shall not be permitted to~~ conduct business under more than one name except as registered. A mover or broker desiring to change its registered name or location or designated agent for service of process at a time other than upon renewal of registration must ~~shall~~ notify the department of the ~~such~~ change.

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(8) The department may deny, ~~or~~ refuse to renew, or revoke the registration of any mover or moving broker based upon a determination that the mover or moving broker, or any of the mover's or moving broker's ~~its~~ directors, officers, owners, or general partners:

(a) Has failed to meet the requirements for registration as provided in this chapter ~~act~~;

(b) Has been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude;

(c) Has not satisfied a civil fine or penalty arising out of any administrative or enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of this chapter ~~act~~;

(d) Has pending against him or her any criminal, administrative, or enforcement proceedings in any jurisdiction, based upon conduct involving fraud, dishonest dealing, or any other act of moral turpitude; or

(e) Has had a judgment entered against him or her in any action brought by the department or the Department of Legal Affairs under this chapter ~~pursuant to this act~~ or ss. 501.201-501.213, the Florida Deceptive and Unfair Trade Practices Act.

(9) Each mover and moving broker shall provide evidence of the current and valid insurance or alternative coverages ~~required under coverage as described in s. 507.04.~~

Section 5. Section 507.04, Florida Statutes, is amended to read:

(Substantial rewording of section. See

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s. 507.04, F.S., for present text.)

507.04 Required insurance coverages; liability  
limitations; valuation coverage.--

(1) LIABILITY INSURANCE.--

(a)1. Except as provided in paragraph (b), each mover  
operating in this state must maintain current and valid  
liability insurance coverage of at least \$10,000 per shipment  
for the loss or damage of household goods resulting from the  
negligence of the mover or its employees or agents.

2. The mover must provide the department with evidence of  
liability insurance coverage before the mover is registered with  
the department under s. 507.03. All insurance coverage  
maintained by a mover must remain in effect throughout the  
mover's registration period. A mover's failure to maintain  
insurance coverage in accordance with this paragraph constitutes  
an immediate threat to the public health, safety, and welfare.  
If a mover fails to maintain insurance coverage, the department  
may immediately suspend the mover's registration or eligibility  
for registration and the mover must immediately cease operating  
as a mover in this state. In addition, and notwithstanding the  
availability of any administrative relief pursuant to chapter  
120, the department may seek from the appropriate circuit court  
an immediate injunction prohibiting the mover from operating in  
this state until the mover complies with this paragraph, a civil  
penalty not to exceed \$5,000, and court costs.

(b) A mover that operates two or fewer vehicles, in lieu  
of maintaining the liability insurance coverage required under

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paragraph (a), may, and each moving broker must, maintain one of the following alternative coverages:

1. A performance bond in the amount of \$25,000, for which the surety of the bond must be a surety company authorized to conduct business in this state; or

2. A certificate of deposit in a Florida banking institution in the amount of \$25,000.

The original bond or certificate of deposit must be filed with the department and must designate the department as the sole beneficiary. The department must use the bond or certificate of deposit exclusively for the payment of claims to consumers who are injured by the fraud, misrepresentation, breach of contract, misfeasance, malfeasance, or financial failure of the mover or moving broker or by a violation of this chapter by the mover or broker. Liability for these injuries may be determined in an administrative proceeding of the department or through a civil action in a court of competent jurisdiction. However, claims against the bond or certificate of deposit must only be paid, in amounts not to exceed the determined liability for these injuries, by order of the department in an administrative proceeding. The bond or certificate of deposit is subject to successive claims, but the aggregate amount of these claims may not exceed the amount of the bond or certificate of deposit.

(2) MOTOR VEHICLE INSURANCE.--Each mover operating in this state must maintain current and valid motor vehicle insurance coverage, including combined bodily injury and property damage liability coverage in the following minimum amounts:

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(a) Fifty thousand dollars per occurrence for a commercial motor vehicle with a gross weight of less than 35,000 pounds.

(b) One hundred thousand dollars per occurrence for a commercial motor vehicle with a gross weight of 35,000 pounds or more, but less than 44,000 pounds.

(c) Three hundred thousand dollars per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.

(3) INSURANCE COVERAGES.--The insurance coverages required under paragraph (1)(a) and subsection (2) must be issued by an insurance company or carrier licensed to transact business in this state under the Florida Insurance Code as designated in s. 624.01. The department shall require a mover to present a certificate of insurance of the required coverages before issuance or renewal of a registration certificate under s. 507.03. The department shall be named as a certificateholder in the certificate and must be notified at least 30 days before any changes in insurance coverage.

(4) LIABILITY LIMITATIONS; VALUATION RATES.--A mover may not limit its liability for the loss or damage of household goods to a valuation rate that is less than 60 cents per pound per article. A provision of a contract for moving services is void if the provision limits a mover's liability to a valuation rate that is less than the minimum rate under this subsection. If a mover limits its liability for a shipper's goods, the mover must disclose the limitation, including the valuation rate, to the shipper in writing at the time that the estimate and contract for services are executed and before any moving or

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accessorial services are provided. The disclosure must also  
inform the shipper of the opportunity to purchase valuation  
coverage if the mover offers that coverage under subsection (5).

(5) VALUATION COVERAGE.--A mover may offer valuation  
coverage to compensate a shipper for the loss or damage of the  
shipper's household goods that are lost or damaged during a  
household move. If a mover offers valuation coverage, the  
coverage must indemnify the shipper for at least the minimum  
valuation rate required under subsection (4). The mover must  
disclose the terms of the coverage to the shipper in writing at  
the time that the estimate and contract for services are  
executed and before any moving or accessorial services are  
provided. The disclosure must inform the shipper of the cost of  
the valuation coverage, the valuation rate of the coverage, and  
the opportunity to reject the coverage. If valuation coverage  
compensates a shipper for at least the minimum valuation rate  
required under subsection (4), the coverage satisfies the  
mover's liability for the minimum valuation rate.

Section 6. Section 507.05, Florida Statutes, is amended to  
read:

507.05 Estimates and contracts for service.--~~Before~~ ~~Prior~~  
to providing any moving or accessorial services, a contract and  
estimate must be provided to a prospective shipper in writing,  
must be signed and dated by the shipper and the mover, and must  
include:

(1) The name, telephone number, and physical address where  
the mover's employees are available during normal business  
hours.



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(2) The date the contract or estimate is prepared and any proposed date of the move.

(3) The name and address of the shipper, the addresses where the articles ~~items~~ are to be picked up and delivered, and a telephone number where the shipper may be reached.

(4) The name, telephone number, and physical address of any location where the goods will be held pending further transportation, including situations where the mover retains possession of goods pending resolution of a fee dispute with the shipper.

(5) An itemized breakdown and description and total of all costs and services for loading, transportation or shipment, unloading, and accessorial services to be provided during a household move or storage of household goods.

(6) Acceptable forms of payment. A mover shall accept a minimum of two of the three following forms of payment:

(a) Cash, cashier's check, money order, or traveler's check;

(b) Valid personal check, showing upon its face the name and address of the shipper or authorized representative; or

(c) Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

A mover must ~~shall~~ clearly and conspicuously disclose to the shipper in the estimate and contract for services the forms of payments the mover will accept, including the forms of payment ~~from those categories~~ described in paragraphs (a)-(c).

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Section 7. Section 507.06, Florida Statutes, is amended to read:

507.06 Delivery and storage of household goods.--

(1) A mover must relinquish household goods to a shipper and must place the goods inside a shipper's dwelling or, if directed by the shipper, inside a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent, unless the shipper has not tendered payment in the amount specified in a written contract or estimate signed and dated by the shipper. A mover may not refuse to relinquish prescription medicines and goods for use by children, including children's furniture, clothing, or toys, under any circumstances.

(2) A mover may not refuse to relinquish household goods to a shipper or fail to place the goods inside a shipper's dwelling or, if directed by the shipper, inside a storehouse or warehouse that is owned or rented by the shipper or the shipper's agent, based on the mover's refusal to accept an acceptable form of payment.

(3) A mover that lawfully fails to relinquish a shipper's household goods may place the goods in storage until payment is tendered; however, the mover must notify the shipper of the location where the goods are stored and the amount due within 5 days after receipt of a written request for that information from the shipper, which request must include the address where the shipper may receive the notice. A mover may not require a prospective shipper to waive any rights or requirements under this section.

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Section 8. Section 507.07, Florida Statutes, is amended to read:

507.07 Violations.--It is a violation of this chapter act to:

(1) Conduct business as a mover or moving broker, or advertise to engage in the business of moving or offering to move, without first being registered annually with the department.

(2) Knowingly make any false statement, representation, or certification in any application, document, or record required to be submitted or retained under this chapter act.

(3) Misrepresent or deceptively represent:

(a) The contract for services, bill of lading, or inventory of household goods for the move estimated.

(b) The timeframe or schedule for delivery or storage of household goods estimated.

(c) The price, size, nature, extent, qualities, or characteristics of accessorial or moving services offered.

(d) The nature or extent of other goods, services, or amenities offered.

(e) A shipper's rights, privileges, or benefits.

(4) Fail to honor and comply with all provisions of the contract for services or bill of lading regarding the purchaser's rights, benefits, and privileges thereunder.

(5) Withhold delivery of household goods or in any way hold goods in storage against the expressed wishes of the shipper if payment has been made as delineated in the estimate or contract for services.

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474           (6)(a) Include in any contract any provision purporting to  
475 waive or limit any right or benefit provided to shippers under  
476 this chapter act.

477           (b) Seek or solicit a ~~such~~ waiver or acceptance of  
478 limitation from a shipper concerning rights or benefits provided  
479 under this chapter act.

480           (c) Use a local mailing address, registration facility,  
481 drop box, or answering service in the promotion, advertising,  
482 solicitation, or sale of contracts, unless the mover's, and, if  
483 applicable, the moving broker's, fixed business address is  
484 clearly disclosed during any telephone solicitation and is  
485 prominently and conspicuously disclosed on all solicitation  
486 materials and on the contract.

487           (d) Commit ~~Do~~ any other act of ~~which constitutes~~ fraud,  
488 misrepresentation, or failure to disclose a material fact.

489           (e) Refuse or fail, or for any of the mover's or broker's  
490 principal officers to refuse or fail, after notice, to produce  
491 any document or record or disclose any information required to  
492 be produced or disclosed.

493           (f) Knowingly make a ~~material~~ false statement in response  
494 to any request or investigation by the department, the  
495 Department of Legal Affairs, or the state attorney.

496           Section 9. Section 507.08, Florida Statutes, is amended to  
497 read:

498           507.08 Deceptive and unfair trade practice.--Acts,  
499 conduct, practices, omissions, failings, misrepresentations, or  
500 nondisclosures committed in ~~which constitute~~ a violation of this  
501 chapter are ~~act also constitute~~ a deceptive and unfair trade

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practices under ~~practice for the purpose of~~ ss. 501.201-501.213,  
the Florida Deceptive and Unfair Trade Practices Act, and  
administrative rules adopted in accordance with the act  
~~thereunder.~~

Section 10. Section 507.09, Florida Statutes, is amended  
to read:

507.09 Administrative remedies; penalties.--

(1) The department may enter an order doing one or more of  
the following if the department finds that a mover or moving  
broker, or a person employed or contracted by a mover or broker,  
has violated or is operating in violation of ~~any of the~~  
~~provisions of this chapter act~~ or the rules or orders issued in  
accordance with this chapter ~~thereunder~~:

(a) Issuing a notice of noncompliance under ~~pursuant to~~ s.  
120.695.

(b) Imposing an administrative fine not to exceed \$5,000  
for each act or omission.

(c) Directing that the person cease and desist specified  
activities.

(d) Refusing to register or revoking or suspending a  
registration.

(e) Placing the registrant on probation for a period of  
time, subject to the ~~such~~ conditions specified by ~~as~~ the  
department ~~may specify.~~

(2) The administrative proceedings which could result in  
the entry of an order imposing any of the penalties specified in  
subsection (1) are governed by chapter 120.

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(3) The department may adopt rules under ss. 120.536(1)  
and 120.54 to administer this chapter ~~has the authority to adopt~~  
~~rules pursuant to chapter 120 to implement this act.~~

Section 11. Section 507.10, Florida Statutes, is amended  
to read:

507.10 Civil penalties; remedies.--

(1) The department may institute a civil action in a court  
of competent jurisdiction to recover any penalties or damages  
authorized ~~allowed~~ in this chapter act and for injunctive relief  
to enforce compliance with this chapter act.

(2) The department may seek a civil penalty of up to  
\$5,000 for each violation of this chapter act.

(3) The department may seek restitution for and on behalf  
of any shipper aggrieved or injured by a violation of this  
chapter act.

(4) Any provision in a contract for services or bill of  
lading from a mover or moving broker that purports to waive,  
limit, restrict, or avoid any of the duties, obligations, or  
prescriptions of the mover or broker, as provided in this  
chapter act, is void ~~and unenforceable and against public~~  
~~policy.~~

(5) The remedies provided in this chapter act are in  
addition to any other remedies available for the same conduct,  
including those provided in local ordinances.

(6) Upon motion of the department in any action brought  
under this chapter act, the court may make appropriate orders,  
including appointment of a master or receiver or sequestration  
of assets, to reimburse shippers found to have been damaged, to

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carry out a consumer transaction in accordance with the shipper's reasonable expectations, or to grant other appropriate relief.

Section 12. Section 507.11, Florida Statutes, is amended to read:

507.11 Criminal penalties.--

(1) The refusal of a mover or a mover's employee, agent, or contractor to comply with an order from a law enforcement officer to relinquish a shipper's household goods after the officer determines that the shipper has tendered payment of the amount of a written estimate or contract, or after the officer determines that the mover did not produce a signed estimate or contract upon which demand is being made for payment, is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A mover's compliance with an order from a law enforcement officer to relinquish goods to a shipper is not a waiver or finding of fact regarding any right to seek further payment from the shipper.

(2) Except as provided in subsection (1), any person or business that violates this chapter ~~act~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 13. Section 507.12, Florida Statutes, is amended to read:

507.12 General Inspection Trust Fund; payments.--Any moneys recovered by the department as a penalty under this chapter ~~act~~ shall be deposited in the General Inspection Trust Fund.

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Section 14. Section 507.13, Florida Statutes, is amended to read:

507.13 Local regulation.--

(1) This chapter does not ~~The provisions of this act are not intended to~~ preempt local ordinances or regulations of a county or municipality which ~~that~~ regulate transactions relating to movers of household goods or moving brokers. As provided in s. 507.03(4), counties and municipalities may require, levy, or collect any registration fee or tax or require the registration or bonding in any manner of any mover or moving broker.

(2) The department may enter into a cooperative agreement with any county or municipality which ~~that~~ provides for the referral, investigation, and prosecution of consumer complaints alleging violations of this chapter act.

Section 15. Section 205.1975, Florida Statutes, is created to read:

205.1975 Household moving services; consumer protection.--A county or municipality may not issue or renew an occupational license for the operation of a mover or moving broker under chapter 507 unless the mover or broker exhibits a current registration from the Department of Agriculture and Consumer Services.

Section 16. This act shall take effect July 1, 2006.